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TRADE AND DEVELOPMENT BOARD
Commission on Investment, Technology
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Intergovernmental Group of Experts
on Competition Law and Policy
Geneva, 29-31 July 1998
Item 2 of the provisional agenda

ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK

Provisional agenda and annotations

I. PROVISIONAL AGENDA

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GE.98-50720 (E)

Item 1. Election of officers

The Intergovernmental Group of Experts will elect a Chairman and Vice-Chairman-cum-Rapporteur.

Item 2. Adoption of the agenda and organization of work

The Expert Meeting on Competition Law and Policy (24-26 November 1997) approved the provisional agenda for the Intergovernmental Group of Experts on Competition Law and Policy, which is reproduced in section I above. It should be recalled in this connection that the General Assembly of the United Nations, in its resolution 52/182 of December 1997, decided, in line with the recommendations of the Third United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (21 November 1995), (i) to change the title of the Intergovernmental Group of Experts on Restrictive Business Practices to that of Intergovernmental Group of Experts on Competition Law and Policy, and (ii) to convene a Fourth United Nations Conference on the RBP Set. The Conference would take place under UNCTAD auspices in the year 2000.

Organization of work

In line with paragraph 114 of "A Partnership for Growth and Development" (TD/378/Rev.1), the session of the Intergovernmental Group of Experts on Competition Law and Policy will last three days. The first plenary meeting will open at 10 a.m. on Wednesday, 29 July 1998, and be devoted to procedural matters (items 1 and 2 of the provisional agenda) and to introductory statements. The closing plenary meeting, on 31 July, will be devoted to the work programme (item 3 (ii)) and to the adoption of the report (item 4). 1/

This will leave the remaining meetings, from the afternoon of 29 July to the morning of 31 July inclusive, for consultations on competition law and policy, including studies related to the provisions of the Set of Principles and Rules (item 3 (i) of the provisional agenda). If more time is needed, the adoption of the report could be postponed to late afternoon of 31 July, in order for an informal working session to take place that afternoon. A timetable will be available on the first day of the meeting.

Item 3 (i). Consultations on competition law and policy, including the Model Law and studies related to the provisions of the Set of Principles and Rules

In paragraph 5 (b) of the agreed conclusions adopted by the Expert Meeting on Competition Law and Policy on 26 November 1997 (TD/B/COM.2/9-TD/B/COM.2/EM/12, annex I), the UNCTAD secretariat was requested to prepare for consideration by the Intergovernmental Group of Experts a revised version of the study on "Empirical evidence of the benefits from applying competition law and policy principles to economic development in order to attain greater efficiency in international trade and development" on the basis of comments made at that meeting and written information to be

received by 31 January 1998. Accordingly, the study prepared by the UNCTAD secretariat on this issue (TD/B/COM.2/EM/10/Rev.1) will be submitted for consideration by the Experts.

Further, under paragraph 5 (d) of the same agreed recommendations, the experts requested the secretariat to continue to publish as non-sessional documents and to make available on the Internet:

(i) Further issues of the Handbook on Competition Legislation, including regional and international instruments;

(ii) A revised version of the Commentary to the Model Law, taking into account new trends in merger control;

(iii) An updated version of the Directory of Competition Authorities; and

(iv) An information note relating to recent important competition cases, with special reference to competition cases involving more than one country, taking into account information to be received from member States.

A further issue of the Handbook containing the competition laws and appropriate commentaries of Algeria, Côte d'Ivoire and Hungary was published as document TD/B/COM.2/EM/11, and a revised version of the Model Law was published as document TD/B/RBP/81/Rev.5. A further compilation of the Handbook, a new edition of the Model Law, as well as an updated Directory and information note, will be issued shortly.

Finally, under this item of the agenda, as requested by the Expert Meeting in November 1997, specific consultations are to be held on three subjects, as follows:

(a) The principle of positive comity;

(b) Remedies and sanctions for antitrust violations;

(c) The treatment of abuse of dominance/monopolization analysis, including price discrimination, with special reference to cases affecting more than one country.

Should countries wish to hold consultations on additional subjects, they are requested to inform the secretariat well in advance (no later than 15 June 1998) in order for all participants to be able to prepare themselves for such consultations. Moreover, for each of the subjects referred to above, the secretariat would encourage experts from both developed and developing countries, as well as countries in transition, to make oral presentations supported by short written contributions to be made available during the consultations.

Item 3 (ii). Work programme, including technical assistance, advisory and training programmes on competition law and policy

Under this item, the Intergovernmental Group of Experts is expected to give guidance to the UNCTAD secretariat as to further work to be undertaken on competition law and policy.

In particular, the experts will have before them an updated review of technical assistance, taking into account the information submitted by States and international organizations, as requested in paragraph 5 (a) of the agreed conclusions of the November 1997 Expert Meeting (TD/B/COM.2/CLP/2) and a preliminary report of a study on "Experiences gained so far with international cooperation on competition policy issues and the mechanisms used", as requested in paragraph 5 (c) of the agreed conclusions of the November 1997 Meeting (TD/B/COM.2/CLP/3).

On the basis of the review of technical cooperation, the Experts will be invited to give guidance to the secretariat on how best to assist developing countries in formulating national competition legislation and regional competition rules, as well as how best to identify financial and technical resources for their implementation. The preliminary report of a study on "experiences" will provide the basis for the Experts to give the secretariat information on the actual implementation of formal or informal arrangements for bilateral, regional, plurilateral and multilateral cooperation in the field of competition law and policy.

In considering the work programme, the Intergovernmental Group of Experts might also wish to reflect on specific steps which might be taken in preparation for the Fourth United Nations Conference to Review the Set, which is scheduled to take place in the year 2000. In particular, the Intergovernmental Group of Experts might wish to discuss issues related to the "development dimension" in competition law and policy.

Item 4. Provisional agenda for the next session of the Intergovernmental Group of Experts

As is customary, the Intergovernmental Group of Experts is expected to adopt the provisional agenda for its next session.

Item 5. Adoption of the report of the Intergovernmental Group of Experts

The Intergovernmental Group of Experts on Competition Law and Policy is required to report to the Commission on Investment, Technology and Related Financial Issues. 1/

Note

1/ In view of the short duration of the session, the Rapporteur would be authorized to complete the final report after the close of the session.